

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the E-rate)	WC Docket No. 13-184
Program for Schools and Libraries)	

**INITIAL COMMENTS OF THE IOWA DEPARTMENT OF EDUCATION
REGARDING
NOTICE OF PROPOSED RULEMAKING
FILED SEPTEMBER 16, 2013**

The Iowa Department of Education (hereafter “The Department”) submits the following comments in response to the FCC’s Notice of Proposed Rulemaking (NPRM) to modernize the E-rate Program for Schools and Libraries. The Department provides E-rate filing support to Iowa’s public and non-public schools, a role The Department has assumed since the inception of the program. In addition, since 2001, The Department has filed a statewide consortium application for selected E-rate eligible services.

Due to the broad scope of the NPRM, the Department has elected to respond in these initial comments to those questions and topics of greatest importance to Iowa’s districts and schools.

Summary of Iowa’s comments

1. The E-rate program has offered significant benefits to districts and schools. However, the program focus needs to ensure priority funding for broadband connectivity to and within schools. Dark fiber and lit fiber should be eligible in a consistent manner, and the purchase and ownership of WANs by applicants should be E-rate eligible in cases where cost effectiveness can be demonstrated.
2. The current E-rate cap is not adequate to meet the demand for broadband connectivity to and within schools and must be adjusted upward to meet the demand.
3. The E-rate program needs to continue to rely upon applicant demand for services rather than resort to a per student allocation.
4. Streamlining the application and review process will ensure funding commitments are made

more quickly. Relying upon state and local procurement regulations, expediting the review of multi-year contracts and utilizing district-level calculations will enhance the application and review process.

5. The Commission should adopt emergency relief processes based upon the Katrina Order.

Background and Benefits of E-rate to Iowa's districts and schools

The E-rate program has greatly benefited Iowa's 348 school districts, ten (10) intermediate school corporations and 175 non-public schools. The majority of our districts have relatively small enrollments with 90.9% of the districts enrolling fewer than 2500 students (69% of Iowa's districts have fewer than 1000 students per district). Recent figures indicate that approximately 40% of Iowa's students are eligible for the National School Lunch Program.¹

Although we are a state of small districts, participation in the E-rate program has been quite high. According to figures from the U.S. Government Accountability Office, 94.1% of Iowa's public districts² and 62% of Iowa's non-public schools³ participated in the E-rate program with their own individual E-rate form 471 filings. Although participation is high, most Iowa districts and schools receive E-rate funding at very modest levels. The state average E-rate discount is usually around 67% with very few schools receiving priority 2 funding.

For selected E-rate services (i.e. 45 MBPS data circuits and interactive videoconferencing services), a state-level consortium application filing by The Department includes 404 school and district network hub locations plus 37 public libraries (consortium participation rate for funding year 2013; consortium participation is voluntary). An annual appropriation from the Iowa General Assembly to The Department partially funds the undiscounted cost of a 45 MPBS data circuit for each of the consortium members. As the consortium member entities need additional bandwidth beyond the 45 MPBS circuit, each member covers any additional circuit costs. All districts are responsible for their own wide area network (WAN) and local area network (LAN) connections. The State of Iowa also provides financial

¹

http://educateiowa.gov/index.php?option=com_content&view=article&id=346&Itemid=4431#condition retrieved 9.11.2013

² <http://www.gao.gov/special.pubs/gao-09-254sp/analysis/pub1.html> retrieved 8.29.2013

³ <http://www.gao.gov/special.pubs/gao-09-254sp/analysis/prv1.html> retrieved 8.29.2013

support for consortium members for interactive videoconferencing services.

In addition to the Department consortium filing for 45 MBPS data circuits and videoconferencing services, each of Iowa's ten intermediate school corporations (each is known as an Area Education Agency) files a consortium application for Internet aggregation that includes the majority of districts and a number of non-public schools served in their region. Participation in the intermediate agency consortium is voluntary.

Goal 1: Ensure that schools and libraries have affordable access to 21st Century broadband (§120-40)

The Department agrees that affordable, reliable, and scalable broadband aligns with the needs of 21st Century learners. Our own state has seen school and district demand for broadband increase dramatically over the past few years, due in large part to one-to-one computing initiatives being implemented. In 2008-09, only six of Iowa's 348 school districts had implemented a one-to-one computer initiative. The next school year, 11 more districts implemented some sort of one-to-one program. The following year, 38 more districts implemented with over 100 districts being "one to one" in 2011-12 school year. During the 2012-13 school year, 140 districts reported being involved in one-to-one programs with an estimate of about 160 districts being involved in one-to-one initiatives at the start of the 2013-14 school year. As a direct result of this jump in increased usage, the Internet aggregation bandwidth requested and used by the ten intermediate agencies consortia increased three-fold in just two years (between 2011 and 2013). This increase is expected to continue as more districts and non-public schools implement similar programs.

While many of our districts have been able to affordably "grow" their bandwidth needs over the past several years, carrier infrastructure is not available in all parts of the state to meet local E-rate applicant demand. And even when the available broadband infrastructure into the district/school network hub exists, costs vary considerably. For example, in our statewide consortium for 45 MBPS data circuits, costs range from \$210 per month for one location to \$3735 per month in another location. The higher cost circuits tend to be in the more rural parts of our state. This wide range of costs for the 45 MBPS circuit to the network hub also is reflected in what Iowa districts pay for the WAN circuits to interconnect their schools back to the network hub. The same districts with high 45 MBPS circuit costs tend to be limited in the ability to affordably move to 100 MBPS and beyond. Recent analysis as part of Iowa's BTOP grant indicated that approximately 80 to 90 Iowa districts may face costly challenges in

upgrading their broadband to 100 MPBS and greater.

An example of current inadequate bandwidth in many school locations was evident in a pilot conducted by The Department in testing the ability to successfully administer online student assessments. Districts that considered themselves “ready” for online assessments were asked to volunteer to participate in the pilot (bandwidth readiness criteria were shared with the districts in advance). 53% of Iowa’s districts volunteered and participated, presumably the most bandwidth-ready districts. Of that number, 14% did not have adequate bandwidth to successfully implement the online assessments. It may be presumed that the remaining 47% of Iowa’s districts that did not participate in the pilot made that choice because they knew in advance they did not meet the bandwidth criteria for the online assessments.

In paragraph 30 of the NPRM, the Commission requests input on how to collect data on the speed and quality of broadband connections. The Department favors using survey methodology, either by USAC or a third party, to sample a stratified random sample of E-rate applicants to track broadband cost, quality of service, and the capacity of existing broadband connections to meet local needs. The Department suggests this survey process track the same sample of applicants over a number of years to note trends in these factors. Further, The Department contends that an in-depth analysis of a few sites will give a more accurate picture of cost and connectivity trends than will a collection of all applicants via Item 21 attachments. While greater transparency of the information from Item 21 attachments for all Iowa applicants would be of great benefit to The Department, use of Item 21 data from each E-rate application for broadband cost analysis to USAC and the FCC would be misleading. As described earlier, the majority of Iowa districts are part of The Department’s consortium form 471 application filing for 45 MPBS circuits. This data is reported in The Department’s consortium form 471 filing in Item 21. In addition, the majority of these same districts are included in the Internet aggregation consortium application for their applicable intermediate school corporation. This data is reported in the intermediate school corporation form 471 filing in Item 21. And finally individual Iowa districts file their own E-rate applications for their WAN data circuits as well as the network hub circuit that exceeds the 45 MPBS provided through The Department’s consortium filing. These three different form 471 applications for different parts of a district’s connectivity and Internet needs (i.e. state filed consortium 45 MPBS data circuits; intermediate school corporation Internet aggregation; local district Internet and WAN circuits). While the Item 21 information is useful to USAC in determining costs requested on an individual form 471, Item 21 analyses from applicants in our state provides an incomplete and confusing

picture of the total cost of broadband for the majority of districts.

The Department opposes the proposal in paragraph 34 to require all applicants to have “dedicated equipment measuring performance to and within each of their buildings.” The purpose of such equipment is questionable, especially how it serves the overall goals of the E-Rate program. As mentioned above, Iowa has 348 school districts and 175 non-public schools (the majority which are very small). Requiring this dedicated equipment in our small districts and schools would serve as a disincentive to participate in the E-rate program, especially when E-rate funding for our smallest districts and schools is often in the range of \$1200 to \$3600 a year. Furthermore, the Iowa districts and schools that are part of the intermediate school corporation consortium application for Internet aggregation are provided network technical support including network performance data.

The Department wishes to comment on paragraph 40 where the NPRM poses the following question: “Is there a way to measure how success in the classroom is affected by access to E-rate funding or services supported by E-rate?” The Department asserts that sufficient broadband capacity/connectivity to Iowa students in their classrooms is a necessary but not sufficient condition for improving student success in school. If measuring E-rate services and aligning to student achievement were this simple, the Department could ignore the need to focus on the quality of the classroom teachers and administrators, the quality of the curriculum, and the quality of student achievement assessments.

Goal 1, part B. Focusing E-rate Funds on Supporting Broadband to and within Schools and Libraries (¶67-114)

Goal 1, part B1. Funding for Broadband Connections. (¶67-89)

The Department favors focusing E-rate funding on supporting broadband to and within schools. This focus should include priority funding not only for broadband to schools but also broadband distribution within schools. This focus would ensure that services integral to the educational mission of the school are prioritized for funding. ⁴

Currently broadband connectivity to schools is a priority 1 service (within certain restrictions). However, the critical internal infrastructure needed to provide connectivity within buildings is currently priority 2

⁴ The Department advocates that videoconferencing remain priority 1 service.

funding. With an overall state average discount of 67%, very few Iowa schools have benefited from needed priority 2 funding. The Department urges the Commission to prioritize funding for those services and related equipment/components that are integral to providing connectivity to the device (e.g. tablet, laptop, desktop, etc). Such a transition would shift some internal connections such as routers, switches, wireless access points, and internal wiring to priority 1. In its 2013 White Paper, SECA proposed very workable guidance on the type and quantities of networking equipment that should be funded.⁵ The Department proposes these components plus installation costs are included as “new” priority 1 equipment and services. Further, the Commission is encouraged to transition existing services and components that are not directly related to access and distribution of broadband to a lower priority funding (“new” priority 2).

As proposed in paragraphs 71 and 72 of the NPRM, the Department recommends treating both lit and dark fiber in a consistent manner, including allowing for priority 1 support of modulating equipment (either leased or purchased equipment) as well as consistent treatment of special construction costs.

The Department contends that there are circumstances where it would be more cost effective for Iowa schools (and for the E-rate fund) to purchase and own dark fiber rather than lease the connections from providers. In a manner similar to *Health Care Connect Fund Order* (cited in paragraph 81), the Department urges the Commission to allow purchased WANS in situations where fiber does not exist or is not available in an affordable manner to eligible schools and libraries. Rules regarding this purchased WAN should encourage the school/anchor institution to lease excess capacity to other entities in the area including private businesses and residences.

Iowa is a state where many students live miles from town and ride the school bus to and from their school, often for nearly an hour each way. These students are dependent upon this mode of transportation and do not have the ability to stay after school to access the school or public library Internet. And often when they arrive at their rural home, there is no broadband available (or if available is too expensive for the family). Several Iowa districts have proposed equipping their school buses with wireless Internet access to provide connectivity for rural students during the travels to and from school. The Department is aware that there may be challenges to making such access E-rate eligible, including ensuring CIPA compliance. However, the Department considers school buses to be school property, in

⁵ SECA White Paper June 2013

much the same manner as a public library book mobile is an E-rate eligible location. To test this idea, the Commission is encouraged to implement a pilot program in a limited number of locations to test the feasibility of providing students with Internet access via the school bus.

Phasing Down Support for Certain Services (§§90-102)

As suggested above, the Department favors creating priority 1 funding for services and equipment (including installation) that are directly related to broadband delivery and lowered priority for current services not directly related to broadband delivery.

Paragraph 102 seeks input on funding of cellular data plans and aircards. While the Department concurs that cellular data plans and aircard service may be costly, there are circumstances where E-rate funding for such plans is essential. Many of the staff members of special schools (e.g. Iowa Braille and Sight Saving School) and the intermediate school corporations are itinerant teachers who work in a variety of different schools and districts each day. Gaining access to each school's network during the short time the itinerant teacher is in each school creates a cumbersome situation both for the teacher and the tech support at the school. Utilizing a wireless aircard service is the most feasible alternative in such circumstances. The Department contends that such access is not duplicative service and should remain a priority 1 funding service.

In paragraphs 99-100, the NPRM seeks input on "Educational Purpose." The current definition of "Educational Purpose" is appropriate and should remain as it is. Often the network hub for Iowa districts is in a central office/non-instructional facility, with the facility integral to the operation of the district network. Trying to cost allocate services to non-instructional facilities such as bus barns will entail extensive time and resources and complicate rather than streamline the review process. For the few dollars that might be recouped from non-instructional facilities, the hours of labor costs in PIA for the close scrutiny of each NIF will be far more costly.

Modifying the Discount Matrix (§§117-125)

The Department favors keeping the discount matrix in its current form for priority 1 services (note the Department favors a "new" priority 1 definition that focuses exclusively on services and equipment to provide broadband access to and within schools and libraries). All other services and equipment not

directly related to broadband connectivity should become priority 2 with a lowered discount matrix. The cap for such “new” priority 2 services should be reduced to a maximum of 70%, as has been proposed in previous comments by SECA.⁶

Support Based on District-Wide Eligibility and Application by School District(¶126-132)

The Department strongly supports the proposal to rely upon a single district-wide discount rate (¶129). Not only will this streamline the application process but it will also ensure a more speedy review by PIA. This overall discount should include both the “new” priority 1 and “new” priority 2 services. A newly revised Item 21 could have a checkbox that offers the choice “serves entire district” and a checkbox that allows the applicant to indicate individual sites served with the FRN. In conjunction with using the district percentage rate, the determination of “rural” should be district-wide rather than determined for each individual school building.

School districts shall calculate discounts on supported services described in § 54.502(b) by calculating a single discount percentage rate for the entire school district by dividing the total number of students eligible for the National School Lunch Program within the school district by the total number of students within the school district. This single discount percentage rate shall then be applied to the discount matrix to set a discount rate for the supported services purchased by all schools within the school district.

The Department does not favor having the Commission define “school district” (¶129). The definition of school district is articulated in the Code of Iowa just as other states have codified the term. The Commission should rely on state laws to determine what constitutes a “school district” for this purpose.

Simplified Allocation of Funds to All Schools and Libraries (¶149-162)

While Iowa applicants certainly advocate for a more simplified E-rate application process and more predictable funding, The Department strongly opposes a per student (or per building) funding floor and cap (¶150-155) for the following reasons:

- As cited previously in this filing, the current 45 MPBS circuit cost ranges from \$210 per month to \$3735 per month, depending upon location of the school district. The Department examined the demographics for two districts at the extreme opposite ends of the cost spectrum. Both districts have approximately the same number of students

⁶ SECA Comments in CC Docket No. 02-6 (filed July 8, 2010)

and each are in rural locations. The difference between the two districts is the service provider, as well as the type of carrier infrastructure. If E-rate relied upon a per student (or even per building) allocation, the district with \$210 per month circuit would have the luxury of spending the per student allocation on other E-rate eligible services and equipment while the district with \$3735 per month circuit would likely spend its entire per student (or per building) allotment on circuit costs alone with no funds remaining for other E-rate eligible services and equipment. Through no fault of their own, one district has much higher costs for the same service and can do little at this point to resolve the situation. One of the strengths of the funding mechanism in the current E-rate program is that applicants apply for and are funded based upon the actual cost of the services they need, rather than being allocated some arbitrary flat amount. The Department contends the current funding allocation based on cost is a more fair method of supporting access to broadband.

- The majority of Iowa districts and schools benefit from being part of two consortia applications, one for statewide data circuits and videoconferencing services and the other for intermediate school corporation/regional Internet aggregation service. Trying to parse a per student (or per building) allocation across various consortia and individual E-rate applications would be an administrative nightmare, both for USAC and for the applicant community. Such a move would discourage consortium applications.

As with any shift from one funding mechanism to another, there are destined to be winners and losers, unless more funding is made available for the E-rate program. As proposed elsewhere in this filing, there are ways to streamline the program, focus on broadband deployment, and make funding more predictable without resorting to funding on a per student basis.

One way to streamline the E-rate procurement process (¶159) is to allow applicants to rely on their own state and local bidding processes rather than the current E-rate bidding requirements which sometimes are at odds with state and local rules. State agencies and public school districts regularly procure all sorts of good and services, from school buses to construction of new school buildings, and these public entities must follow pertinent laws and regulations. In addition, these entities are subject to regular audits that include a review of bidding procedures. The Department urges the Commission to modify its rules and rely instead on state and local procurement for public entities. For the non-public schools that

are not subject to state and local bidding regulations, the E-rate procurement rules could remain a default.

The current E-rate competitive bidding rules and processes (use of the form 470; 28-day waiting period; price as the primary consideration; evidence and documentation of competitive bidding) have been a source of frustration for Iowa's smallest districts and schools. Small districts and schools regularly report that after posting form 470, they receive no bids (or sometimes only one bid) for most of the services listed on form 470 and yet receive a host of confusing e-mail "bids" for services they did not list on form 470 (especially webhosting). Not only is the applicant at a loss of how to get a bid from small local vendors, especially local telephone companies, but establishing the required bidding documentation is a meaningless endeavor. Too many small Iowa applicants that received no bids have been needlessly denied funding simply because they could not provide bids to PIA.

Lowering New Build Costs and Identifying Additional Funding to Support Broadband to Schools and Libraries (§163-176)

While the Department acknowledges that the E-rate program cannot and should not be the sole source of funding to ensure affordable broadband to districts and school, E-rate has a critical role to play in partnership with educational and library anchor institutions to expand the availability of affordable broadband access. Programs such as Connect America and other USF programs have a role to play in providing schools and their communities with affordable access as well.

Even working with other USF programs and Connect America Fund to support broadband deployment to underserved areas, an increase in the E-rate funding cap is warranted in an on-going basis (§173). The Department's proposed "new" priority 1 definition (broadband to and within schools) will require additional funding beyond the current cap, not just in a one-time investment but also for the foreseeable future. In order to meet these educational needs, the contribution factor should be raised to meet, at a minimum, the demand for the "new" priority 1 services and equipment.

MAXIMIZING THE COST EFFECTIVENESS OF E-RATE FUNDS (§177-233)

Increasing Consortium Purchasing (§179-185)

The majority of Iowa's districts as well as a number of non-public schools are included in two consortia applications, one at the state level and the other at the appropriate regional level. Not only do these consortia filings result in lower costs for the districts and schools, additional benefits are derived by belonging to the consortia. At the state level, an appropriation from the Iowa General Assembly to the Iowa Department of Education pays for a portion of the undiscounted E-rate cost of a 45 MPBS circuit to the district network hub. Videoconferencing services are offered at a greatly reduced cost due to participation in the state-wide consortium. Each regional consortium offers the opportunity to be part of Internet aggregation through the intermediate school corporation network hub. Costs are reduced for participating districts and schools, and each intermediate hub provides value-added services not currently eligible for E-rate funding (e.g. district and school network technical support). The technical support has been especially beneficial to the smallest rural districts where local technical expertise is often not available or affordable. Participation in each of these consortium applications is voluntary. For funding year 2013, 28% of the E-rate funds requested by Iowa E-rate applicants were through the state and intermediate consortia applications.

To date, the largest barriers that Iowa consortia face involve the application and review process. The current form 471 block 4 requires the listing of each and every entity (school) being served in the consortium, as well as tedious review every year by PIA. The lengthy PIA review process to analyze the enrollment and NSLP data for each individual school too often delays consortium funding until very late in the funding year, often dragging into the following year before funding is committed. Combine that miniscule examination with questions about closed buildings (which do NOT impact the funding for the overall Internet aggregation costs) and the review time and expense make the consortia application process daunting. This situation could be resolved by allowing the consortium to complete block 4 with entry of the overall enrollment and NSLP data for the entities participating in the consortium (easily verified by PIA through the Iowa Department of Education database). As suggested earlier, the Item 21 attachment or other mechanism could then list the districts and non-public schools participating in the consortium. Review of the enrollment and NSLP data by PIA would take less than an hour instead of the months currently experienced by Iowa's consortium members.

Encouraging Other Types of Bulk Buying Opportunities (§186-190)

The Department discourages any move that requires E-rate applicants to purchase from state master contracts, unless state law already mandates such procurement. Iowa law does not require districts and non-public schools to buy from state master contracts and would not favor efforts to restrict purchasing by LEAs. As stated previously, the Department strongly recommends that the E-rate program rely upon existing state and local procurement laws and regulations rather than imposing further regulations.

Increasing Transparency (§191-201)

It is difficult to argue that increasing transparency in the E-rate program may be beneficial. However, The Department cautions that the benefits of the methods proposed in the NPRM may be outweighed by the costs in time and effort by the applicants. The Department questions to what end this increased transparency will result. Will bids be more competitive the following years? Will members of the public/citizens even care to examine E-rate bids and resulting costs? What additional burden will be placed upon applicants and will such efforts discourage participation in the E-rate program, especially for small districts and schools that currently receive one or no bids? Assuming the current Item 21 continues to be utilized, making that data available for public view may be the least intrusive transparency procedure.

In paragraphs 198-201, the Commission requests feedback on whether USAC or some other entity should provide technical assistance to applicants. The Department respectfully disagrees with these suggestions and urges the Commission to focus instead on the work that could be supported by individual states. For example, Iowa's intermediate school corporations (i.e. Area Education Agencies) have the expertise to provide these advisory services to the districts and schools they serve. If the primary goal of the E-rate program is to ensure affordable broadband access, it would seem far more efficient to allocate a modest level of support to states to provide this advisory service since the states would be far more aware of broadband options available at a local level.

Improving the Competitive Bidding Process (§202-210)

As The Department has previously stated in this filing, Iowa's smallest districts and schools routinely report that they receive either one bid or no bids as a result of posting the required form 470, especially

for local telephone service. Rather than place the burden of further solicitation of bids on the applicant, the Department again repeats the strong recommendation that state and local procurement rules should apply.

The concept of “Lowest Corresponding Price” is foreign to the majority of Iowa’s districts and schools. The Department questions how a small district with only a single local telephone provider will ensure that the lowest corresponding price is being offered to the E-rate applicant. (Iowa has 141 local independent telecommunications companies, more than any other state).

Broadband Planning and Use (§217-219)

The Department strongly opposes any move toward reinstating any technology planning requirement for any priority 1 services. If the Commission plans to require states to approve priority 1 technology planning or any similar process, then funding for such staff must be provided. With the elimination of Federal Title IID funding, the Department lacks the staff to review such plans.

Streamlining the administration of the E-rate program (§224-269)

Speeding Review of Applications, Commitment Decisions, and Funding Disbursement (§233-247)

One of the greatest frustrations of the E-rate program for Iowa applicants is the year-after-year review of form 471 block 5 multi-year contracts. It is understandable that a contract be reviewed by PIA in the first year of a contract. But to then have the contract reviewed all over again in the subsequent years makes little sense. A major source of confusion for Iowa applicants regarding multi-year contracts is figuring out which form 470 “established” the contract. The Department consultant supporting local E-rate applicants reports the confusion over the correct form 470 to cite on form 471, block 5, as the single most confusing part of PIA review (a real “gotcha” in the application process). The Department strongly supports the following rule change, with the exception of making the limitation five years (§241). For minor contracts amendments, the Department urges the Commission to allow a simple checkbox for contract amendment as part of the annual form 471 application. This is especially important for applicants increasing broadband capacity under existing multi-year contracts.

Multi-year contracts. An eligible school, library or consortium that includes an eligible school or library seeking to receive discounts under this subpart may submit to USAC a single FCC Form 471 covering all the years of a multi-year contract, provided that the

term of the contract including extensions, does not exceed three years. An FCC Form 471 covering a multi-year contract must be submitted to USAC before the start of the first funding year covered by the multi-year contract.

Simplifying the Eligible Services List (§248-251)

The Department agrees with the proposed rule change to remove the regulatory distinction between various types of eligible services (§249). “Specifically, we propose to amend section 54.502 and the ESL to remove the regulatory classifications of telecommunications services and Internet access to allow applicants to seek eligible services from any entity.” Applicants do not understand the classifications, and removing them from the eligible services list will provide more clarity.

In addition, the Department concurs with the proposal by the SECA (§251) to allow applicants to indicate compliance with CIPA on form 471 (rather than the currently required form 486).

Effective Disbursement of Unused Funding (§254-258)

Iowa E-rate applicants regularly report that accurately calculating the amount of funding to request in block 5 of form 471 is often frustrating, especially for Internet and broadband. Because applicants must complete the application process (request bids via form 470, sign contracts, complete form 471) almost six months prior to the start of the next school year, accurately predicting funding requests is challenging. As districts and schools implement one-to-one initiatives, needed growth of bandwidth is difficult to forecast several months in advance. One applicant, unsure of whether the school board was going to approve a one-to-one program for the following school year, lamented that he was forced to estimate bandwidth needs quite high on block 5 since the E-rate program does allow a request to increase E-rate funding in the middle of a funding year.

The Department recognizes that unused and unreturned funds hamper the ability to determine roll-over amounts for future funding years. Currently there is no incentive for applicants to file form 500 and release unused funding (one more form to complete). The Department offers the following suggestion: As part of the final disbursement for any funding year (whether via BEAR or SPI), a simple checkbox on both forms could specify for each FRN, “This is the final invoice for the funding year for this FRN. Any remaining unused approved funds may be released to USAC.”

Invoicing and Disbursement Process (§259-265)

The proposal in paragraph 261 to permit BEAR payments directly to applicants has great appeal for Iowa districts and schools. Rather than require the direct payment to the applicant, the Department requests that this payment method be an option for the applicant. There may be circumstances where the applicant would prefer to have the BEAR funding flow through the service provider.

Paragraph 265 proposes allowing applicants a one-time 120-day extension to complete invoicing for recurring and non-recurring charges. While the Department agrees that speeding up the invoicing process is a worthy goal, creating a hard and fast deadline for successful filing of the BEAR form may create more problems than it solves. Many Iowa applicants have difficulty completing the BEAR process in a timely manner, often because they do not realize they need to take action. At least three situations are at play: (a). Districts and schools regularly have a change in personnel over the summer months, just as the E-rate funding year is ending. Often the new staff member who is assigned E-rate is unaware that a BEAR must be completed (may be a “newbie” to E-rate with no knowledge of the complex processes). (b). Examination of the DRT to determine undisbursed funds for an applicant does not always assist in determining whether a BEAR must be filed. If the service provider gave monthly discounts but has not filed form 474, the DRT will show \$0 disbursement which is confusing to new E-rate district and school contacts. (c). If the BEAR is completed in an incorrect manner (e.g. the wrong invoice amount is entered) and the service provider rejects the BEAR, then a “zero funded” BEAR letter is sent to the applicant and the BEAR process starts anew. If the Commission is seeking to streamline the program, requiring the applicant to make a special case for an invoice extension adds to the workload, both for the applicant and for USAC.

OTHER OUTSTANDING ISSUES (§270-329)

The Children’s Internet Protection Act (§271-275)

Interpretation of CIPA has challenged many Iowa districts and schools as they seek to ensure student safety and at the same time educate students in the appropriate use of social media and the Internet. The Department offers this clarification of CIPA as it applies to various situations: (a). CIPA applies to E-rate supported Internet access and/or internal connections. (b). CIPA does not apply to Internet access that is not E-rate supported. (c). CIPA applies to school-owned devices used on campus to connect to E-

rate supported Internet. (d). CIPA does not apply to situations where school-owned devices are used off-campus to access Internet outside the school (i.e. there's no E-rate supported Internet involved). (e). CIPA does not apply if a student-owned device is brought to school AND the student connects to the E-rate supported Internet. (f). CIPA does not apply if a student-owned device is brought to school AND the student uses his/her own built-in wireless access (there's no E-rate supported Internet involved).

The above CIPA guidance does not limit a district from creating and enforcing a local policy that further restricts and refines the above use. In fact, The Department contends that the best place to determine further interpretation is at the local level where educators and their community dialogue about Internet safety and educational aspects of the Internet.

Identifying Rural Schools and Libraries (§276-281)

The current method of identifying schools as “rural” is outdated. For simplicity, it is recommended that the definition of “rural” as identified in other federal programs should be utilized for E-rate. As noted elsewhere in these comments, the Department recommends using district-level data in the E-rate application process rather than school specific data. NCES has created a determination of school districts in accordance with the following codes.⁷ Use of these codes for the entire district eliminates the need to be concerned about new buildings. *In the E-rate Broadband NPRM, we proposed that any school or library that is within a territory that is classified as “town-distant,” “town-remote,” “rural-distant,” or “rural-remote” by the U.S. Department of Education’s National Center for Education Statistics (NCES) urban-centric locale code be considered rural for purposes of calculating its E-rate discount level.* The Department favors using these codes as proposed for E-rate purposes.

Addressing Changes to the National School Lunch Program (§282-293)

Despite the fact that the U.S. Department of Agriculture is rolling out the Community Eligibility Option (CEO) reimbursement mechanism, The Department has serious concerns about the implementation of CEO as it does not appear to accurately measure poverty of students. The Department recommends using the current process of National School Lunch Program eligibility data as the basis for calculating the discount for E-rate purposes.

⁷ http://nces.ed.gov/ccd/rural_locales.asp retrieved 9.14.2013

Extending the E-rate Document Retention Requirements (§295-297)

The Department strongly disagrees with increasing the document retention requirements from five years to ten years. Further, there appear to be no compelling arguments in favor of the extension.

Documentation of Competitive Bidding (§298)

As stated elsewhere in this filing, The Department recommends a rule change in favor of relying on state and local procurement laws and regulations rather than the current E-rate procurement rules. The Department sees no reason for applicants to submit bid documentation to USAC. This additional paperwork would be contradictory to the goal of streamlining the application and review process.

Procedures for National Emergencies (§324-329)

Several Iowa districts and libraries are no strangers to natural disasters. For example, during the flood of 2008, the city of Cedar Rapids suffered damage from which the residents are still recovering. The Cedar Rapids School District sustained complete destruction of the network hub and had to relocate to temporary facilities until a central office/network hub could be completed outside the flood plain. In 2008, the Iowa Department of Education filed a *Petition for Waiver and Relief* with the Commission on behalf of the districts and libraries impacted by the flood. Six subsequent supplements have been filed with the Commission, along with actual invoices and evidence of payment of these invoices for E-rate eligible items. To date, despite helpful responses from Commission staff members, no action has been taken on this request even though the Petition was filed in a timely manner following the destructive flood. The Department believes that no other state should have to wait for five years (or more) for relief and urges the Commission to establish a process for relief.

The Commission has established precedence in dealing with a Major Disaster with the Katrina Order. In the opinion of The Department, the FCC “got it right” with the Katrina Order. This special relief process for future disasters should be exclusively for E-rate eligible facilities in locations that are determined by the President to be in a Major Disaster area and which the state department of education in that state (or similar state agency) certifies were damaged or destroyed as a result of that disaster (i.e. a school or library is not automatically eligible for special E-rate relief simply because it is located in a disaster area; significant damage resulting from the disaster must be certified by the appropriate state agency).

Because destroyed facilities often cannot be rebuilt for an extended period of time, the special relief

rules should not set a limited time period but rather allow the impacted school or library several years, if necessary, to be rebuilt and eligible for special disaster funding.

Specifically, per the Katrina Order, the Commission is encouraged to implement the following process in rule:

- Identify a lead agency in the impacted state that will agree to examine affected facilities and to certify that E-rate eligible damage and/or destruction occurred
- Require affected applicants to certify that the services and products on this application will be solely used to restore the network to the same pre-disaster degree of functionality
- Require affected applicants to certify that any duplicate funding (i.e. insurance, FEMA, community resources) in excess of 90% of the cost for products or services requested on this application will be returned to the Universal Service Fund
- Allow applicants to dispose of E-rate funded equipment that is damaged and destroyed without requiring the usual five years prior to disposal

Conclusion

The Department thanks the Commission for soliciting input on ways to move the E-rate program forward to meet the changing needs of students across the country.

Sincerely,



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